IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 964 (S/S) of 2006

Birendra Singh Rawat,
S/o late Sri K.S. Rawat,
Aged about 43 years,
Resident of RI – 6, Type – 3,
Government Colony,
Rudrapur,
District – Udham Singh Nagar. **……Petitioner.**

Versus

1. State of Uttaranchal through Secretary, Cooperative Societies, Dehradun.
2. Registrar, Cooperative Societies, Uttaranchal, Dehradun.
3. District Assistant Registrar, Cooperative Societies, Uttaranchal, Udham Singh Nagar.

……..Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Subash Upadhyay, learned counsel for the petitioner and learned standing counsel for State of Uttaranchal on behalf of respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

(i) Issue a writ, order or direction in the nature of Certiorari for quashing the impugned transfer order dated 06.07.2006, so far it relates to the petitioner.

(ii) Issue a writ, order or direction in the nature of ad interim Mandamus staying the effect and operation of the impugned order dated 06.07.2006, during the pendency of the present writ petition.

(iii) Issue a writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) Award the petition in favour of the petitioner.

Petitioner, who is working as Accountant in the office of District Assistant Registrar, Cooperative Societies, Udham Singh Nagar, has been transferred to Tehri vide order dated 06.07.2006 passed by respondent no. 2. While transferring the petitioner from Udham Singh Nagar to Tehri it is mentioned in the transfer order that petitioner is being transferred on administrative ground.

The submission of the learned counsel for the petitioner is that neither there is any complaint against that petitioner from any quarter i.e. either from the general public or from the employees nor there is any adverse entry against the petitioner, as such, petitioner could not have been transferred on administrative ground.

He has further submitted that transfer policy issued by State of Uttaranchal has clarified under which circumstances a person can be transferred. According to the policy, a person can been transferred on administrative ground if there is serious complaint against him. The complaint should be verified first and if the Competent Authority comes to the conclusion that there is some substance in the complaint, only thereafter, transfer can be made on administrative ground.

In the present case, since there is no complaint against the petitioner, respondents department cannot transfer the petitioner on the administrative ground.

Petitioner has fairly conceded the fact that he is not aggrieved with the transfer order, however, he is aggrieved with the note mentioned in transfer order that he is being transferred on administrative ground, which is stigmatic.

I am not impressed by the argument of learned counsel for the petitioner that transfer of petitioner on administrative ground is stigmatic.

The note that petitioner is transferred on administrative ground is not stigmatic at all. However, in case, if there is no complaint against the petitioner, then what was the occasion for respondent no. 2 to make such endorsement against the name of the petitioner in the transfer order. Learned standing counsel could not submit any reason.

Learned counsel for the petitioner has submitted that he has already made representation dated 07.07.2006 and the same has been forwarded on 10.07.2006 by respondent no. 3 to the Registrar, Cooperative Societies, Dehradun for necessary action but till date no action has been taken by the Registrar, Cooperative Societies, Dehradun.

It is expected that Registrar, Cooperative Societies, Dehradun will look into the matter and if there is no complaint against the petitioner, he can modified the transfer order. In case, there is complaint against the petitioner he will verify whether, prior to transferring the petitioner, the complaint has been examined by the competent authority or not? Till the decision is taken by the Registrar, Cooperative Societies, Dehradun petitioner shall not been relieved, in case, he has not already been relieved.

With this direction the writ petition is finally disposed. No order as to costs.

(M.M. Ghildiyal, J)

July 17, 2006
SKSharma